IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7899 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BIHARILAL B PANDYA

Versus

STATE OF GUJARAT

Appearance:

MR NIKHIL CARRIEL for Petitioners

MR SAMIR DAVE for M/S PATEL ADVOCATES for Resp. No.1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/08/2000

ORAL JUDGEMENT

#. The learned counsel for the petitioner states that during pendency of this petition, petitioner No.1 retired from the Government Service after attaining the age of superannuation.

#. Heard learned counsel for the parties.

#. In the Special Civil Application, prayer has been made by the petitioner to direct the respondents to promote the petitioners to the higher post of District Ayurved Officer Class-I immediately and give all the consequential benefits on that basis. Second prayer is made for directing the respondents to consider the cases of the petitioners for promotion to the posts of District Ayurved Officer Class I on the basis of the ratio of 1:1 laid down by the recruitment rules for the said posts and give consequential benefits to the petitioners on that basis. Third prayer is made for direction to the respondents to promote the petitioners to the higher posts in Class I service earlier in point of time than any of of the candidates selected by the G.P.S.C. by way of direct recruitments and thereby protect the seniority of the petitioners over those direct recruits.

#. During the course of arguments, the learned counsel for the petitioners contended that the petitioner No.1 was holding the post of Class I since 1981 and he retired from the very post though worked on ad-hoc basis leaving apart whether his claim for promotion is acceptable or not his case deserves to be considered for regularisation on that post. Similar is prayer of the petitioner No.2, who is also working against the Class-I post since 27.6.81 his claim for regularisation on the post deserves to be considered by the respondents.

#. In the Special Civil Application no such prayer has been made and this contention made by the learned counsel for the petitioners cannot be entertained. However, it is always open to the petitioners to make a detailed representation with regard to their grievances to the State of Gujarat and in case the representation is made the State of Gujarat shall consider the same in accordance with law and pass appropriate order.

#. It is unfortunate that the respondents have not cared to file reply to the Special Civil Application and whatever the factual averments made by the petitioners in this Special Civil Application stand uncontroverted. Otherwise also, when the petition is filed by the petitioner before this court it is the duty of the State of Gujarat which is spending huge amount of the peoples money under the head of Litigation to provide adequate assistance to the court. In such matters adequate assistance means not only making oral submissions by learned AGP but filing of the detailed reply is also

necessary. Be that as it may.

#. The interest of justice will be served in case this petition is disposed of in the terms that for the grievances made by the petitioners in this petition they may file detailed representation to the State of Gujarat through concerned Secretary within a period of 15 days from today and the respondent No.1-State of Gujarat through the secretary concerned shall decide the same within a period of one month from the date of the receipt thereof. Where the grievances of the petitioner are not acceptable, a reasoned order be passed and a copy of the same be sent to the petitioner by Registered Post A.D.

#. Shri Carriel, during the course of arguments, submitted xerox copy of Government Resolution dated 4.5.99 whereunder services of Class-II officers of Ayurved Department were regularized from the date of their appointment. It is open to the petitioners to bring this resolution to the notice of the respondent and the respondent may also consider the same while deciding the representation of the petitioner.

#. Rule and Special Civil Application stand disposed of accordingly with no order as to costs. Liberty is granted to the petitioner for revival of the Special Civil Application where any adverse order is passed by the respondents on their representation.

(S.K.Keshote, J.)

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